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10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ROBERT RUNDO,
ROBERT BOMAN,
17 AARON EASON, and
TYLER LAUBE,
18

Defendants.
19

No. CR 18-759-CJC

GOVERNMENT'S BRIEF IN OPPOSITION
TO DEFENDANT AARON EASON'S
APPLICATION FOR BAIL REVIEW;
EXHIBITS

20 Plaintiff United States of America, by and through its counsel
21 of record, the United States Attorney for the Central District of
22 California and Assistant United States Attorneys David T. Ryan and
23 George E. Pence, hereby files its opposition to defendant AARON
24 EASON's application for bail review.
25

26 //

27 //

28

1 This opposition is based upon the attached memorandum of points
2 and authorities and exhibits, the files and records in this case, and
3 such further evidence and argument as the Court may permit.

4 Dated: December 20, 2018

Respectfully submitted,

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9 /s/

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Throughout 2017, defendant and his co-conspirators engaged in a
4 campaign of violence, traveling far and wide to assault people who
5 did not share their white supremacist ideology at political rallies,
6 recruiting and training members to join their racist cause, and
7 bragging about their "victories" online. Defendant and his co-
8 conspirators used the cover of free expression to disguise their true
9 goal: to batter, beat, and suppress the speech of those with whom
10 they disagreed. Defendant has not renounced this goal; to the
11 contrary, in September 2017 he wrote to a co-conspirator about his
12 plan to "go hard" with their brand of violent activism, and upon his
13 arrest in October 2018, agents seized notebooks showing defendant's
14 plans to continue recruiting and building the "White Nationalist"
15 movement. Courts in California and Virginia have uniformly held that
16 there is no set of conditions that might be fashioned that
17 sufficiently mitigate the clear danger to the community and risk of
18 flight that defendant's co-conspirators present. And there are no
19 such conditions that might be fashioned with respect to defendant,
20 who should remain detained.

21 The evidence of defendant's violent propensities is
22 overwhelming. Hours of video footage show defendant and his co-
23 conspirators trampling over police barricades, chasing their victims
24 through city streets, and punching people who posed no physical
25 threat to them, all while chanting pro-fascist messages such as
26 "Pinochet! Pinochet!" and expressly violent exhortations such as
27 "knock that little bitch out!" In light of this overwhelming
28 evidence, two of the eight defendants charged for these riots have

1 already pleaded guilty and admitted that they and other members of
2 what they described as the "DIY Division" and "Rise Against Movement"
3 ("RAM") assaulted protestors at both Huntington Beach and Berkeley.
4 This evidence, and defendant's co-conspirators' guilty pleas, flatly
5 refute defendant's attempt to characterize his conduct and that of
6 his co-conspirators as peaceful or confined to self-defense.

7 Defendant's acts of violence were not random. Rather, they were
8 the result of defendant and his co-conspirators coming together
9 around their shared ideology to engage in violent confrontations
10 against those with opposing political views. Defendant's adherence
11 to violent extremist ideology is central to understanding the acts of
12 violence charged in this case and the ongoing danger he poses to the
13 community. Defendant's writings are replete with Nazi swastikas,
14 anti-Semitic images, lists of "potential recruits," a strategy for
15 building a "White Nationalism" movement, and a "Courage Plan" to
16 "fight and trounce someone in anger," and "practice an attitude of
17 alpha dominance everywhere you go." Defendant's co-conspirators –
18 with whom defendant participated in three riots, and whom defendant
19 recruited, trained, and drove to the Berkeley riot – openly shared
20 their allegiance to Adolf Hitler, Nazism, and Fascism through online
21 posts, text messages, and "Heil Hitler" tattoos and graffiti.

22 That is why the Magistrate Judge has twice ordered this
23 defendant detained pending trial, and why with the exception of Tyler
24 Laube (whom this Court ordered released on bond only after he pleaded
25 guilty, accepted responsibility for his conduct, and came forward
26 with seven sureties), all six remaining defendants arrested in
27 connection with these riots (two of whom attempted to flee) have been
28 detained by all five Judges who have reviewed the cases against them.

1 **II. STATEMENT OF FACTS**

2 **A. March 4, 2017: San Diego, California**

3 On March 4, 2017, defendant attended a political rally in San
4 Diego, California, along with co-defendants Robert Rundo ("Rundo"),
5 Robert Boman ("Boman"), and Tyler Laube ("Laube"), and other members
6 of what was then known as the "DIY Division" and later re-branded to
7 the Rise Above Movement ("RAM"), including Michael Miselis
8 ("Miselis") and RAM co-founder Benjamin Daley ("Daley"). According
9 to witness statements, a group of counter-protestors standing at the
10 back of the event traded insults with the defendants and their
11 associates as they arrived. Video of the event recorded by Boman
12 shows Boman walking across the front of the stage holding a sign with
13 the words "Da Goyim Know," while others in the group cheered.¹ (Ex.
14 1A). Moments later, Laube said, "we got here at the wrong time,
15 dude, I really wanted to fuck those motherfuckers up." Another
16 associate responded, "I know, right. But it wouldn't have happened,
17 there were so many cops." Laube responded, "yea well they came in
18 and they were talking shit but all the cops were around them. It's
19 pretty easy to talk shit when you're surrounded by cops." (Ex. 1B).
20 The San Diego event concluded without an outbreak of violence.

21 **B. March 25, 2017: Huntington Beach, California**

22 On March 15, 2017, defendant attended a combat training session
23 with Rundo, Daley, Laube, and other DIY Division/RAM members. The
24 DIY Division documented the training event on its Instagram account,
25 posting a photograph of defendant and the other attendees at the
26

27 ¹ As stated in the Complaint, the phrase "da goyim know" is used
28 by white supremacy extremists to refer to their purported knowledge
of a Jewish conspiracy to control world affairs. (See Dkt. 1, ¶ 21).

1 event.² (Ex. 2 at 1). On March 25, 2017, defendant attended another
2 political rally in Huntington Beach, California, along with Rundo,
3 Daley, Laube, Boman, Miselis, and other DIY Division/RAM members.
4 Several hundred people attended the "Make America Great Again" rally
5 that day, the vast majority of whom engaged in peaceful activities
6 throughout the day. (Complaint, Dkt. 1, ¶ 20).

7 Videos show hundreds of rally attendees marching south along the
8 beach. (See Ex. 3A). At the same time, to the north of the
9 marchers, defendant, his co-conspirators, and other associates
10 carrying signs that read "DEFEND AMERICA" and "Da Goyim Know," did
11 not march south, but went to the area where a small group of counter-
12 protestors had gathered. (Complaint, Dkt. 1, ¶ 21).

13 Defendant, Boman, Daley, and Laube, at the forefront of a group
14 of at least 30 others, confronted a photographer and a reporter
15 covering the event for a local publication called The OC Weekly.
16 (Ex. 3B at 0:00-0:30).³ A man then shoved the OC Weekly photographer
17 from behind, and punched the reporter four times, while an event
18 organizer, Jennifer Sterling, tried to pull the man away. (Id. at
19 0:30-0:39). As the reporter stumbled backward, Laube grabbed the
20 reporter's shoulder with his left hand, and punched the reporter
21 three times in the face. (Id. at 0:39-0:42). Ms. Sterling attempted
22 to pull defendant Laube away. A counter-protestor released pepper
23

24 ² Defendant has repeatedly asserted that he was not included in
25 RAM promotional materials. (Dkt. 106 at 53, Dkt. 104 at 9). In
26 fact, however, as set forth herein, defendant appears in several
photographs posted on social media by RAM and its predecessor
organization the DIY Division.

27 ³ Defendant is shown confronting the journalists while wearing a
28 green jacket and a red hat, while Daley, Boman, Laube, and other
stand directly behind him.

1 spray, leading the crowd to momentarily disperse. (Id. at 0:42-
2 0:50).

3 Seconds later, defendant, Rundo, Boman, Daley, Miselis, and at
4 least 20 other people began pursuing three counter-protestors north
5 along the beach, with several people chanting, "You can't run, you
6 can't hide, you get helicopter ride!"⁴ (Ex. 4 at 0:00-0:14).⁵ Boman
7 kicked one counter-protestor in the back, and shoved a second
8 counter-protestor in the back. (Id. at 0:04, 0:20; Ex. 3B at 1:27,
9 1:43). Another man punched the third counter-protestor in the face,
10 knocking her down, as a third yelled, "knock that little bitch out!"
11 (Ex. 4 at 0:28-30). Seconds later, Rundo approached two of the
12 counter-protestors from behind, punched one in the back of the head,
13 turned to the other, punched him in the back of the head, grabbed the
14 back of his neck, and threw him to the ground, landing on top of him.
15 Rundo held the counter-protestor down with his left hand and threw
16 several punches at his head while defendant and other RAM members
17 looked on. (Ex. 3B at 1:54-2:15; Ex. 4 at 0:29-0:50). After several
18 seconds, the counter-protestor released pepper spray, leading Rundo
19 to back away. The counter-protestor then ran northeast from the
20 beach into a parking lot, while a large group pursued him, pushing
21 him and hitting him with flag poles. (Ex. 3B at 2:15-2:49).

24 ⁴ White supremacy extremists and neo-Nazis often refer to
25 "helicopter rides" when discussing how to treat communists and other
26 anti-fascists. The phrase is a reference to extrajudicial killings
27 known as "death flights" committed by General Augusto Pinochet's
forces in Chile in the late 1970s, in which the dictator's forces
threw opponents out of helicopters.

28 ⁵ Defendant appears in Exhibit 4 again in his green jacket and
red hat, standing next to Boman, who is holding the "Da Goyim Know"
sign, and Daley, who is wearing a black shirt and sunglasses.

1 The next day, March 26, 2017, defendant celebrated this violence
2 online. Boman posted on Facebook a link to an article from The Daily
3 Stormer, a news website and online community forum that is well known
4 among neo-Nazis and white supremacy extremists, titled
5 "Trumpenkriegers Physically Remove Antifa Homos in Huntington Beach,"
6 along with the comment, "We did it fam." (Ex. 5). Later that day,
7 EASON commented on the post, "TRUMPENKRIEGERS!!!!!!" (Id.)

8 Defendant's co-conspirators continued bragging about their
9 violence for months. Later in 2017, the RAM Instagram account posted
10 a photograph of Rundo punching a counter-protestor at the Huntington
11 Beach event, with the words "Physical Removal" superimposed across
12 the top and the comment, "The day we got our start. Not many
13 altrighters can say they Not only stood and fought antifa but
14 actually chased them out of rallies and keep fellow patriots safe."
15 (Ex. 6). The RAM Twitter account also posted a picture showing
16 several DIY Division/RAM members at the Huntington Beach rally,
17 standing behind their "Defend America" sign, with the accompanying
18 text, "Shortly after this pic antifa was btfo in Huntington Beach."⁶
19 (Complaint, Dkt. 1, ¶ 31).

20 **C. April 15, 2017: Berkeley, California**

21 In the weeks before the political rally in Berkeley, California
22 on April 15, 2017, numerous groups and individuals commonly referred
23 to as "far-right" and "far-left" promoted their intention to engage
24 in a massive violent confrontation, or "battle," at the event. A
25 previous event in Berkeley on March 4, 2017, had descended into
26 violence between these opposing groups. According to one former DIY
27

28 ⁶ "BTFO" stands for "Blown the Fuck Out."

1 Division/RAM associate, Daley and others in the group frequently
2 discussed how the event on April 15 was going to be a "war."

3 Defendant started preparing for the "war" almost immediately.
4 On March 27, 2017, defendant sent a text message to Miselis stating
5 that he was "expecting about 15 solid guys in our caravan coming up
6 from So Cal and we can accommodate [sic] as many as you can give. . .
7 . Anyone who doesn't come will wish they had." (Complaint, Dkt. 1,
8 ¶ 32). Defendant told Miselis, "we have hand to hand and formation
9 fighting training in San Clemente this Saturday. It's not required,
10 but we'd like to get everyone we can there." (Id.) Two days later,
11 defendant confirmed with Miselis, "Training is a go. . . . We'll
12 probably have equipment for shield and stick training and our
13 formation tactics ready."

14 Defendant then posted several Twitter messages to promote the
15 attendance of his co-conspirators at the Berkeley event, building on
16 the notoriety they gained from their assaults at Huntington Beach.
17 On April 3, 2017, defendant posted on the Twitter accounts of several
18 prominent political activists that the "boys who chased antifa off
19 the beach in Huntington are coming up" to Berkeley, and asking for
20 the activists to give them a "shout out" and "put some heart in
21 them." (Ex. 7).

22 Defendant not only promoted the coming conflict and recruited
23 soldiers for it; he also handled the logistics. Defendant reserved
24 an 11-passenger van for the group to travel to Berkeley, arranged
25 payment for their hotel rooms, and traveled with the group from Los
26 Angeles to the rally. (Ex. 8).

27 At the event, defendant's co-conspirators, whom he had
28 recruited, trained, promoted, and driven to the rally, showed up

1 ready to do battle, carrying their "Da Goyim Know" and "Defend
2 America" signs, with their hands taped, goggles on, mouth guards in,
3 and faces covered in skull masks. (Ex. 9). Numerous videos show the
4 chaos that unfolded. The two sides were initially separated by
5 orange fencing while they faced off and exchanged insults, with Daley
6 and others at one point chanting, "Pinochet! Pinochet!" (Ex. 10A).
7 After several minutes, defendant, Rundo, Daley, Miselis, and others
8 who had been standing with them at the front of the orange barrier
9 charged across the barrier and began fighting with counter-
10 protestors. (Ex. 10B).⁷ After pepper spray was released and
11 defendant and his group returned to their side of the barrier, the
12 two groups again faced off, now separated by police officers, trading
13 insults, threatening each other, and challenging each other to
14 continue fighting. (Exs. 10C, 10D).

15 Moments later, defendant and his group crossed the orange
16 barrier again and engaged in fights with the counter-protestors.
17 This time, defendant punched a counter-protestor in the back of the
18 head. (Ex. 11 at 0:01-0:09). Defendant and his co-conspirators then
19 lined up in formation, as did a group of counter-protestors, to
20 prepare for another confrontation. A minute later, Daley, Boman, and
21 others ripped a banner away from a group of counter-protestors, while
22 Rundo punched multiple individuals before being subdued and arrested
23 by a Berkeley Police Officer, whom Rundo punched two times in the
24 face. (Id. at 1:00-01:27).

26 ⁷ As set forth in the Indictment, RAM later bragged about
27 initiating this violence, sending a Twitter message to another
28 Twitter user who had proposed interviewing RAM leaders on a podcast,
"Maybe if there [is] enough time could mention [Berkeley] how we were
the first guys to jump over the barrier and engage and how that had a
huge impact." (Indictment, Dkt. 47, at 11).

1 Over the next several minutes, the counter-protestors began to
2 leave the park where the rally was held and walk through the streets.
3 Defendant and his co-conspirators pursued them, as both sides
4 continued to hurl insults and engage in numerous confrontations and
5 skirmishes. The groups then formed against each other in the
6 streets, far removed from the original rally location, with Boman at
7 the front engaging in a verbal back-and-forth with a counter-
8 protestor, before a smoke bomb erupted, a large group yelled
9 "Charge!," and defendant, Rundo, Daley, Miselis, Boman, and others
10 began chasing the counter-protestors through the streets. (Ex. 12 at
11 0:00-1:15). During that pursuit, numerous fistfights broke out, with
12 defendant, Daley, Boman, Miselis, and others from their group at the
13 forefront. (Id. at 1:15-3:05).

14 **D. Defendant and Co-Conspirators Celebrated Berkeley and**
15 **Planned for More Events**

16 After the Berkeley event, defendant and his co-conspirators
17 shared celebratory messages online and through text messages.
18 Immediately after the event, defendant and his co-conspirators posed
19 for a celebratory picture with the banner they had ripped away from
20 counter-protestors. (Ex. 13). The next day, the DIY Division
21 Instagram account posted a photograph showing defendant with Daley,
22 Rundo, and others wearing their skull masks in the van defendant had
23 rented to take them to the event. (Ex. 14 at 1). An associate
24 commented on the post, "How'd you guys do?" The DIY Division
25 Instagram account responded, "to[o] good to even talk about on here."
26 Another associate replied, "I expect at least 20 shill scalps," and a
27 third replied, "Total right wing victory." (Id. at 2).

1 Also on April 16, 2017, Miselis sent a text message to an
2 associate describing how "our guys were just wrecking them, like not
3 even any room to get a hit in," and how he had "found a video on that
4 site where you can see me breaking [my hand] on a guys head lol."
5 (Complaint, Dkt. 1, ¶ 43). The associate responded, "I've been
6 looking at videos. There's a grey-shirted storm trooper at the
7 fucking front every, single, time. You guys were lions." Miselis
8 replied, "Total Aryan victory." (Id.).

9 On April 20, 2017, the DIY Division Instagram account posted
10 another photograph showing defendant, Miselis, and a third DIY
11 Division/RAM member standing amidst smoke at the Berkeley event, with
12 the accompanying hashtag, "#DIYDIV." (Ex. 15).

13 On April 21, 2017, defendant again sought to recruit soldiers to
14 travel to Berkeley. He sent a text message to Miselis asking if his
15 broken hand was strong enough to attend another event at Berkeley the
16 next week, stating, "I'm driving up to deny antifa a face-saving
17 victory." (Id. ¶ 44.) Defendant also sent Facebook messages to
18 Boman, Daley, and Brittney Welch⁸ to recruit them to the upcoming
19 Berkeley event, stating, "Berkeley again. Returning victors.
20 They're going to feel like th[e] SoCal boys OWN their town." (Ex. 16
21 at 3). After others expressed hesitancy to go, defendant wrote, "we
22 can't let antifa make a comeback. Another shaming will break them, a
23 victory will make it like Berkeley ne[v]er happened." (Id. at 2).

24 On May 7, 2017, Boman posted on Facebook about another upcoming
25 event, with a picture stating "Every Race Has a Place," and the
26 comment, "Shit is going to get buck out there." (Ex. 17). An
27

28 ⁸ Brittney Welch has also gone by Brittney Dillinger, which is
the name shown on her Facebook profile.

1 associate replied, "You should be there . . . you would ROCK some
2 [Black Lives Matter] bitches!" Another associate commented, "You
3 know what I want. Let them start this civil war. We will end it."
4 Boman replied, "Shit bro. The Jew army would shut it down pretty
5 quick I feel." Brittney Welch responded, "Totally wish we could be
6 there." Boman replied, "It's going to get outrageous. Cops aren't
7 going to do jackshit." (Id.)

8 **E. San Bernardino, California: June 10, 2017**

9 Defendant and his co-conspirators soon mobilized for violence
10 again. On May 15, 2017, the DIY Division Instagram posted a
11 photograph of Rundo wearing a black skull mask with the comment,
12 "#rightwingdeathsquad." (Ex. 18). On June 1, 2017, Daley sent a
13 Facebook message to an associate stating that he and 30 others were
14 planning to "take over" an upcoming march, and sharing photographs of
15 signs that they planned to carry at the march. (Indictment, Dkt. 47,
16 at 8). On June 10, 2017, defendant, Daley, Rundo, Miselis, and other
17 DIY Division/RAM members attended a political rally in San
18 Bernardino, California, carrying the signs shown in Daley's Facebook
19 message, including flags showing individuals being thrown out of
20 helicopters, in reference to the "helicopter rides" or "death
21 flights" discussed above. (Ex. 19).

22 According to police officers providing security at the rally,
23 while hundreds of attendees marched peacefully, a group of
24 demonstrators began facing off with a group of counter-protestors
25 standing on an opposite street corner. The rally organizer contacted
26 the police officer and said that a group of young men who were not
27 part of her group, and whom she believed were white supremacists,
28 were "acting aggressively toward the counter protestors." (Ex. 20 at

1 1). The officer saw that some of the people in that group were
2 wearing black masks with white skulls on them. The officer heard
3 members of the group identify themselves as "Rise Above," and saw
4 them "on several occasions, walking aggressively toward the counter
5 protestors in an apparent attempt to provoke and intimidate them."
6 (Id.). The counter-protestors sought police protection as they tried
7 to leave the area, and the officers saw "several individuals from the
8 aggressive group running" across the street, "chasing counter
9 protestors to their vehicles," and "hitting their vehicles with flag
10 poles." (Id. at 1-2). Officers arrested three individuals, all of
11 whom were wearing the distinctive DIY Division/RAM skull masks.

12 Three days later, Daley sent a text message to an associate,
13 stating, "we smashed some antifa as they were leaving." (Indictment,
14 Dkt. 47, at 9). The associate responded, "If it wasn't for the White
15 Nationalists nothing would ever get done." Daley replied, "This is
16 true would've been no victory in Huntington or Berkeley." (Id.).

17 Over the next several months, Daley, Miselis, and other DIY
18 Division/RAM members attended and assaulted protestors at the Unite
19 the Right Rally in Charlottesville, Virginia on August 11-12, 2017,
20 and frequently bragged on social media about the assaults they had
21 committed in Huntington Beach, Berkeley, and San Bernardino,
22 describing themselves as "the only alt right crew that actually beats
23 antifa senseless and wins rallies," and posting numerous photographs
24 and videos of themselves assaulting protestors at political rallies.
25 (Id. at 10). A month after the Charlottesville event, defendant sent
26 a text message to Miselis, stating that he was "back in a position to
27 go hard with activism" after having been "sidetracked after
28 Berkeley." (Id.)

1 **III. ARGUMENT**

2 To determine whether pretrial detention is warranted, the Court
3 considers: (1) the nature and circumstances of the offense charged;
4 (2) the weight of the evidence against the person; (3) the history
5 and characteristics of the person; and (4) the nature and seriousness
6 of the danger to any person or the community that would be posed by
7 the person's release. See 18 U.S.C. § 3142(g). All four factors
8 here weigh in favor of detention.

9 **A. Nature and Circumstances of the Offense Charged**

10 The Indictment and criminal complaint set forth that defendant
11 recruited, trained, and traveled with large groups of co-conspirators
12 to engage in violent confrontations against political opponents at
13 political rallies. At these rallies, not only did defendant engage
14 in violent acts himself, but those he recruited, trained, promoted,
15 and traveled with were among the leaders in inciting and committing
16 acts of violence.

17 Defendant contends that he was at the events only to "protect
18 speakers," and not to engage in violence. (Dkt. 104 at 5). Yet his
19 and his co-conspirators' own words and actions, captured on videos,
20 text messages, and social media posts, show otherwise. The video
21 shows him and his co-conspirators repeatedly confronting, pursuing,
22 and assaulting counter-protestors. After these events, defendant did
23 not recoil or regret that matters had gotten out of hand. He did not
24 seek to separate himself. On the contrary, he and his co-
25 conspirators went on social media to celebrate and brag about those
26 assaults, and plan for more. After Huntington Beach, when the
27 assaults committed by Rundo, Boman, and others were celebrated on the
28 neo-Nazi website The Daily Stormer, defendant celebrated along with

1 them on Facebook and Twitter and recruited them to Berkeley, inviting
2 them to "hand to hand and formation fighting training" and assuring
3 them the Berkeley event was not to be missed: "Anyone who doesn't
4 come will wish they had." (Complaint ¶ 32).

5 After Berkeley, which devolved into a massive riot, defendant
6 again did not seek to separate himself. Instead, he was immediately
7 ready to go again, recruiting Boman and others days later to go back
8 to Berkeley as "Returning victors" to "deny antifa a face-saving
9 victory," deliver "another shaming," and make them "feel like th[e]
10 SoCal boys OWN their town."

11 Defendant's own words show his satisfaction with the "victory"
12 he and the group he brought to Berkeley had achieved, and their
13 intent to deliver another victory at the next event. That is why the
14 Magistrate Judge rejected defendant's attempt to minimize his own
15 involvement, explaining to defendant:

16 I spent a lot of time looking at the timeline
17 that's set out in the affidavit, what's described
18 about this organization RAM. I took a look at
19 the statements that are attributed to you and
20 what's described about your participation and/or
21 involvement at Berkeley. And what I take away
22 from that is that you appear to understand what
23 the movement . . . was doing or did in appearing
24 . . . at these events . . . that you took steps
25 to arrange, not only for transportation, but some
26 type of training. And then I have a statement
27 after that, when it appears to me that you should
28 know or should've known what the movement was
attempting to do, based on the violence that
occurred at Berkeley . . . showing that you are
not . . . withdrawing from the movement or the
conspiracy that's been charged, but instead, you
are still participating.

(Ex. 21 at 30).

As the Magistrate Judge found, defendant continued participating
through at least the San Bernardino event in June 2017, and sought to

1 reengage after the deadly events in Charlottesville in August 2017,
2 when he wrote to Miselis that he was "back in a position to go hard
3 with activism."⁹

4 In response to this evidence, defendant relies on a declaration
5 from Brittney Welch stating that he did not harbor racist views and
6 did not intend to engage in violence. Ms. Welch, however, admitted
7 that she was not at any training events with defendant and his co-
8 conspirators, she was not at the events in Huntington Beach or San
9 Bernardino, and she did not see the assaults captured on video at
10 Berkeley committed by defendant and those he invited at her request.
11 (Ex. 22 at 24, 26-29, 38). Her absence from the key events at issue,
12 the Magistrate Judge found, "limits [Ms. Welch's] knowledge as to
13 whether or not Mr. Eason is a danger to the community." (Id. at 56).

14 Furthermore, Ms. Welch's testimony is contradicted not only by
15 hours of footage and the defendant's own social media and journal
16 entries, but also by her own subsequent communications. A week after
17 the Berkeley event, when defendant stated on Facebook his intent to
18 go back to Berkeley as "Returning victors" to "break" antifa and make
19 them "feel like th[e] SoCal boys OWN their town," Ms. Welch replied,
20 "I will be there in spirit." (Ex. 16 at 2-3). A week after that,
21 contrary to Ms. Welch's testimony that she believed Daley and others
22 were not part of a group and were just friends who "hung out," (Ex.
23 22 at 26), Ms. Welch invited Daley and Boman on Facebook to another
24 political event, stating, "It's an opportunity for you guys to
25

26 ⁹ Before the Magistrate Judge, defendant asserted that his
27 message to Miselis actually referred to his plan to begin "planting
28 trees." (Ex. 21 at 25; Ex. 22 at 44). Unsurprisingly, the
Magistrate Judge found that assertion "difficult to credit." (Ex. 22
at 45).

1 recruit." (Ex. 23).¹⁰ And a week after that, after Boman advertised
2 on Facebook another event and described how "shit is going to get
3 buck out there," after another person replied that Boman would "ROCK
4 some [Black Lives Matter] bitches!", and after Boman replied that
5 "[t]he Jew army would shut it down pretty quick," Ms. Welch replied,
6 "Totally wish we could be there." (Ex. 17 at 1).

7 In light of defendant's own words and actions, and those of his
8 co-conspirators, captured on video, social media, and text messages,
9 there is simply no basis for defendant's assertion that he did not
10 commit acts of violence at political rallies, did not recruit and
11 train others to do so, and was not associated with the DIY
12 Division/RAM. Nor is there a basis for defendant's assertion that
13 the violence at these rallies was provoked and perpetrated solely by
14 those on the opposing side. (Dkt. 104 at 9-13). At Huntington
15 Beach, the video shows defendant and his large group pursuing a small
16 group of counter-protestors, and punching and kicking them in the
17 back. At Berkeley, the video shows people from both sides arrived
18 ready to do battle, which is exactly what they did. Defendant shares
19 several examples of violence perpetrated by those on the opposing
20 side throughout the day. But, the fact that people on the other side
21 shared the intent to engage in battle does not change the defendant's
22 deep culpability for his own actions, including planning, preparing,
23 and mobilizing others for violence.

24 For those actions, defendant now faces a significant period of
25 incarceration. Contrary to defendant's assertion, his likely
26

27 ¹⁰ In the months before and after Ms. Welch's Facebook
28 communications with Daley and Boman, both of their Facebook profiles
were replete with explicit messages in support of Adolf Hitler and
neo-Nazi ideology.

Guidelines range, after the application of specific offense characteristics, is 46-57 months without acceptance of responsibility, and 33-41 months with acceptance. Defendant calculated a far lower Guidelines range by "assuming," without any basis to do so, that no enhancements would be applicable. (Dkt. 104 at 2). Based on his false assumption, defendant also asserted that his sentencing exposure would "not justify any reasonable person to flee." (Dkt. 104 at 14). This argument must carry little weight when two of his co-defendants in this case already fled - defendant Rundo fled to Cuba and El Salvador, where he was arrested, and defendant Boman led police on a lengthy chase on bicycle and on foot before agents tackled and apprehended him. Given the serious, violent nature of the charges, this factor strongly weighs in favor of detention.

B. Weight of the Evidence

This factor strongly weighs in favor of detention. As set forth above, the defendant and his co-conspirators' assaults were captured on video, and their efforts to recruit, train, plan for, and celebrate those assaults throughout 2017 were captured on social media and text messages. Thus, the evidence against defendant and his co-conspirators is largely in the form of their own words and their own actions, which establish their intent to engage in acts of rioting, and their execution of that intent at political rallies.

For these reasons, two of the eight defendants charged in connection with these riots have already pleaded guilty. Co-defendant Tyler Laube pleaded guilty in this case and admitted that the DIY Division/RAM "regularly held hand-to-hand and other combat training for RAM members and associates to prepare to engage in

1 violent confrontations with protestors and other individuals at
2 political rallies," including one such training session, which
3 defendant attended, on March 15, 2017. (Dkt. 59 at 5). Laube
4 further admitted that he "and several RAM members assaulted
5 protestors and other persons" at the Huntington Beach event on March
6 25, 2017. (Id.)

7 Similarly, Cole White pled guilty in the related case in the
8 Western District of Virginia, admitting that he not only engaged in
9 acts of rioting in Charlottesville, but also in Berkeley on April 15,
10 2017. White admitted that he met Daley at the Berkeley event, who
11 was "with a group of individuals who identified themselves as the
12 'Rise Above Movement' or 'RAM.'" (Ex. 24 at 1). White further
13 admitted that "there were several violent clashes between some rally
14 attendees and some individuals protesting the rally," and "[i]n one
15 of the first such instances, RAM members crossed the barrier
16 separating the attendees and protestors, and assaulted protestors."
17 (Id.) White further admitted that, "[a]s the rally broke up, rally
18 attendees and protestors dispersed onto the streets of downtown
19 Berkeley," where he, "alongside other RAM members, followed a group
20 of protestors who were leaving the area . . . chased after one of the
21 protestors and attacked him, punching him several times in the head,"
22 and then "stood over top of another individual who was on the ground
23 and punched him in the head approximately four to five times." (Id.)
24 Finally, White admitted, "None of these acts of violence were in
25 self-defense." (Id.)

26 C. Personal History and Characteristics

27 Defendant's history and characteristics further weigh in favor
28 of detention, because they include his adherence to an extremist

1 white supremacy ideology in furtherance of which he has already
2 engaged in violence, as set forth above. Defendant's own Facebook
3 page and journal are not only replete with Nazi swastikas and
4 virulent anti-Semitic images and content, but also lists of
5 "potential recruits," plans to conduct vigilante "patrols" with the
6 organization "Soldiers of Odin," plans to recruit using the neo-Nazi
7 website "Storm Front," a strategy for building a new "White
8 Nationalism 3.0" movement, and a "Courage Plan" to "fight and trounce
9 someone in anger," and "practice an attitude of alpha dominance
10 everywhere you go." (Exs. 25, 26).

11 Defendant and his co-conspirators executed defendant's "Courage
12 Plan" throughout 2017, moving to chants of "Pinochet! Pinochet!" and
13 carrying anti-Semitic signs as they pursued and assaulted
14 journalists, anti-fascist protestors, and others. In light of
15 defendant's adherence to this extremist and hateful ideology, and his
16 history of recruiting others with the ideology to assault political
17 opponents, this factor weighs in favor of detention.

18 **D. Nature and Seriousness of the Danger**

19 The nature and seriousness of the danger that would be posed by
20 defendant's release is demonstrated by the danger he has already
21 posed through his own conduct, and that of those he has recruited
22 into his movement, as set forth above.

23 The Supreme Court emphasized the danger posed by those who not
24 only commit crimes themselves, but conspire with others to do so,
25 explaining that conspiracy

26 is "a distinct evil," which "may exist and be punished
27 whether or not the substantive crime ensues." Salinas v.
28 United States, 522 U.S. 52, 65, 118 S.Ct. 469, 139 L. Ed.
2d 352 (1997). The conspiracy poses a "threat to the
public" over and above the threat of the commission of the

relevant substantive crime - both because the "[c]ombination in crime makes more likely the commission of [other] crimes" and because it "decreases the probability that the individuals involved will depart from their path of criminality." Callanan v. United States, 364 U.S. 587, 593-594, 81 S.Ct. 321, 5 L. Ed. 2d 312 (1961); see also United States v. Rabinowich, 238 U.S. 78, 88, 35 S.Ct. 682, 59 L.Ed. 1211 (1915) (conspiracy "sometimes quite outweigh[s], in injury to the public, the mere commission of the contemplated crime").

United States v. Jimenez-Recio, 537 U.S. 270, 274-75 (2003)

Defendant's own words and actions show that he has not withdrawn from the movement he has helped to build through his participation in this conspiracy. Instead, he has continued to build it. This factor weighs strongly in favor of detention.

E. Defendant's Proposed Conditions of Release are Makeweight

In addition to the standard terms of pre-trial release, defendant also proposes that he be prohibited from attending political events and rallies and from associating with any white nationalist organization. These proposed conditions fail to mitigate sufficiently the danger to the community that defendant presents.

First, the proposed conditions are largely unenforceable. To ensure compliance, the probation office would have to monitor defendant's activities—including his activities online, where white nationalism flourishes—24 hours per day, seven days per week. The probation office is not well-positioned to devote the resources that would be necessary for such a project. Moreover, unlike restrictions on contacting a victim or witness, defendant's non-compliance would likely go unreported by a third party.

Second, even if this monitoring problem could be solved, there is the additional problem of defining the prohibited conduct.

Defendant's own journals make clear that the modus operandi of "WN

1 3.0" is to avoid the "embarrassing" symbols, style, and behavior of
2 earlier white nationalists, such as former Ku Klux Klan Grand Wizard
3 "David Duke" and the "Skinhead movement," and to adopt a "more
4 sensible" approach to "create good public op[er]ation." (Ex. 25). As
5 defendant himself recognizes, this new form of white nationalism is,
6 by design, difficult to distinguish from the mainstream. The heavy
7 burden of making this distinction would fall first on the probation
8 officer and then on the Court, and would raise difficult questions of
9 political affiliation that courts, for good reason, often seek to
10 avoid answering. For example, defendant's writings indicate his
11 affiliation with the Soldiers of Odin, (Ex. 19 at 4), which does not
12 self-identify as a white nationalist group, but which has been
13 identified by the Anti-Defamation League as a "hate group."

14 Moreover, defendant's proposed restriction prohibits contacts
15 only with "organizations," which is another term that defies ready
16 definition, especially in this context, where white nationalist
17 groups form and re-form under different names, or no name at all.
18 For example, even before the co-conspirators adopted the names "DIY
19 Division" and "RAM," they were already a dangerous group of white
20 nationalists. Whether defendant's affiliation with a similar group
21 in the future would be covered by the proposed condition of release
22 is simply not clear.

23 **IV. CONCLUSION**

24 For the foregoing reasons, the government respectfully requests
25 that this Court order defendant to remain detained pending trial.
26
27
28